IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SEVENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

**THE HONOURABLE SRI JUSTICE V.V.S.RAO**

WRIT PETITION NO.13108 of 2004

Between:

Rayani Rajyalakshmi, W/o.Narasimharao, 26 years,
R/o.Ramkur, J.Pangulur (M), Prakasam District.

**...PETITIONER**

AND

1. The Revenue Divisional Officer, Ongole, Prakasam District.
2. The Mandal Revenue Officer, J.Pangulur (M), Prakasam District.

**...RESPONDENTS**

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the order of the 1st respondent in Rc C/843/2004, dated 21.07.2004 thereby suspending petitioner's fair price shop dealership for the village Ramkur and on the same day issuing show cause notice without affording any opportunity of submitting explanation is illegal, irregular, arbitrary, malafide and violative of principles of natural justice and also Articles 14, 19 and 21 of the Constitution of India and also A.P. Scheduled Commodities (Regulation of Distribution by Card System) Order 2001, quash the same and consequently direct the respondent to continue her as fair price shop dealer in the interest of justice.

**Counsel for the Petitioner: MR.SATYANARAYANA NIMMAGADDA**

**Counsel for the Respondents: GP FOR CIVIL SUPPLIES**

The Court made the following:

**ORDER:**

The petitioner is a Fair Price Shop dealer of Ramkur Village in J.Pangulur Mandal of Prakasam District. The Mandal Revenue Officer (for short 'the MRO'), J.Pangulur submitted a report to the first respondent alleging the following irregularities.

1. The dealer got married since 5 years back with resident of Ganapavaram Village of Guntur District and residing with him and the dealership is running by *benami* dealer, Sri Rayani Subbarao.

2. The dealer is selling the ECs at higher rates i.e. Rice is Rs.5.50 ps per Kg, Kerosene Oil Rs.10.50 ps per Litre and AAY Rs.3.25 ps per Kg.

3. The dealer is distributing the AAY rice @ 25 and 15 Kgs to the card holders instead of 35 Kgs per card.

4. The dealer is not distributing the Kerosene oil as per scales prescribed by the Government.

5. The dealer is not distributing the rice through weighing machine.

The first respondent initiated action and issued a show cause notice to the petitioner on 21.07.2004 calling upon her to show cause as to why her dealership should not be cancelled. On the same day, by a separate order, the first respondent placed the petitioner under suspension pending enquiry. Assailing the same, the present Writ Petition is filed.

Sri Satyanarayana Nimmagadda, learned counsel for the petitioner submits that the impugned order is vitiated by the fact that the show cause notice and the impugned order were issued on the same day. I am afraid, I cannot agree with the submission. The show cause notice was issued to show cause as to why her dealership should not be cancelled, whereas the impugned order shows the suspension of the petitioner pending enquiry. The power to cancel authorization and the power to suspend are two distinct powers. Pending submission of explanation by the aggrieved person to show cause notice for cancellation of dealership, the authority is not divested of independent power to suspend the authorization. The submission, therefore, is rejected. Further, the petitioner has an effective alternative remedy under Section 20 (i) of the Andhra Pradesh State Public Distribution System (Control Order) 2001. The petitioner is given liberty to avail the same. As and when the

petitioner files appeal before the Joint Collector against the orders of suspension dated 21.07.2004, the Joint Collector shall dispose of the same within a period of eight (8) weeks from the date of such application.

With the above observations, the Writ Petition is disposed of.

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**(V.V.S.RAO, J)**

27th July 2004

RRB

ASSISTANT REGISTRAR

//True Copy//

SECTION OFFICER

Copies To:

1. The Revenue Divisional Officer, Ongole, Prakasam District.
2. The Mandal Revenue Officer, J.Pangulur (M), Prakasam District.
3. Two CCs to G.P. for Civil Supplies, High Court Buildings, Hyderabad (OUT).
4. Two CD copies.